IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 14002 of 2004

Between:

V. Pedda Reddy S/o Sri V. Madhav Reddy
R/o H. No. 13-1-324 Mahatmagandhi Colony, Ananthapur

..... PETITIONER

AND

1 APSRTC., rep by Regional Manger Anantapur Region Anantapur
2 The Depot Manager APSRTC., Anantapur Depot Anantapur District
3 The Depot Manager, APSRTC Kalayndurg Depot Kalyandurg Anantapur

.....RESPONDENTSS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or Writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ declaring the office order No. P2/813(18)/2004-RM-A dated 27-7-2004 as illegal and arbitrary and consequently set aside the same.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 14002 of 2004

O R D E R:

Challenging the transfer orders made vide the impugned proceedings dated 27.7.2004, the present writ petition is filed.

The case of the petitioner is that his services as Conductor were regularized w.e.f. 1.2.1990. While he was working at Kalyandurg depot, he made a representation for transfer to Anantapur due to personal reasons. As per the procedure, the Corporation is maintaining the seniority list of the request transfer applications of the employees in Anantapur region and the name of the petitioner was entered in the said seniority list at Serial No.4. As per the seniority, his case was considered and the Regional Manager issued orders dated 24.6.2004 effecting transfers of various conductors working in Anantapur region on request. While he was working at Anantapur depot, the office of the Regional Manager issued office order dated 27.7.2004 cancelling his request transfer to Anantapur depot on the premise that he was away from Anantapur w.e.f. 9.5.2001 and therefore he is not entitled to transfer to Anantapur. The grievance of the petitioner is that the impugned proceedings dated 27.7.2004 cancelling his request transfer to Anantapur are misconceived and the reasons given therein are arbitrary and unjust. Hence the present writ petition.

The respondents filed counter affidavit stating that on request the petitioner was transferred to Anantapur Depot and he reported at Anantapur depot on 20.10.1990. While working at Anantapur Depot the petitioner was suspended on 18.2.2001 for involving in certain cash and ticket irregularities. On raising suspension the petitioner was posted to Kalyandurg from Anantapur. Accordingly the petitioner reported at Kalyandurg on 9.5.2001. Every year, in the month of January the Regional Manager's office would call for applications from all cadres of employees working in the Region inviting their options for transfer on request. On receipt of applications, a priority list will be prepared. In the year 2004 also a

priority list has been prepared by calling data from the employees. While furnishing the data of the petitioner by the Kalyandurg Depot authorities by mistake it was informed that the petitioner was working outside Anantapur and working at Kalyandurg w.e.f. 1.2.1990 instead of 9.5.2001. Due to that mistake, the petitioner's name was shown at Sl.No.4 in the list of employees requesting transfer to Anantapur instead of showing at Sl.No.82. It is further stated that as per the seniority of request prepared for Anantapur depot basing on the applications made by the Conductors as many as 82 conductors, who were stayed away from 15.5.1982 to 24.4.2001 are awaiting for transfer to Anantapur Depot before the petitioner. Noticing the above mistake, the cancellation orders have been issued. It is further stated that 82 persons who are seniors in the priority list are waiting and in order to do justice to the eligible senior conductors the impugned orders are issued. Therefore, according to the respondents, the cancellation of transfers orders are issued in accordance with the procedure and without any mala fide intention. Hence, they pray to dismiss the writ petition.

Learned counsel for the petitioner vehemently contended that the petitioner's name is shown at Sl.No.4 and therefore he is eligible to be transferred to Anantapur on priority basis.

On the other hand, learned counsel for the respondents contended that by mistake he was shown at Sl.No.4 instead of showing at Sl.No.82 and therefore the impugned proceedings do not suffer from any legal infirmities.

The factual matrix is not in dispute. It is well settled that the transfer is not only an incidence of service but also one of the service conditions of an employee. The fact is that every year a seniority list is being prepared by the respondent-Corporation for the purpose of effecting transfers. Accordingly in the year 2004, a priority list has been prepared by calling the necessary and required data from the employees. While furnishing the data of the petitioner, the Kalyandurg Depot authorities by mistake informed the Regional

Manager's Office that the petitioner was working outside Anantapur and presently at Kalyandurg w.e.f. 1.2.1990. But, as a matter of fact, the petitioner was working at Kalyandurg w.e.f. 9.5.2001. So, admittedly, as seen from the averments in the counter affidavit, in the seniority list of request transfers the name of the petitioner was shown at Sl.No.82 with regard to Anantapur region. It is further stated that some conductors who are away from Anantapur in between 15.5.1982 and 24.4.2001 are awaiting for transfer to Anantapur and they have all got priority over the petitioner. Therefore, the impugned orders have been issued. It is not the case of the petitioner that he was working at Kalyandurg depot from 1.2.1990. It is not stated by him since how long he was working at Kalyandurg depot. It is also not the case of the petitioner that the priority list as prepared by the Regional Manager's Office has been violated. So also, it is not the case of the petitioner that there is arbitrary exercise of power by the Regional Manager in cancelling the orders of transfer of the petitioner from Kalyandurg to Anantapur. In order to rectify the mistake that was committed in furnishing the data particulars by Kalyandurg depot authorities and also to facilitate the senior eligible conductors in effecting transfer to Anantapur depot, the impugned proceedings have been issued. The same are not shown to be issued to do any favouritism or for any extraneous reasons. It is not shown that the impugned proceedings suffer from any incurable legal infirmities or contrary to the guidelines or circular instructions in respect of transfer of employees of the respondent-Corporation.

In the absence of all these aspects, I am of the considered opinion that the impugned order is perfectly justified having noticed the mistake committed by Kalyandurg depot authorities in furnishing wrong information with regard to the date of working at Kalyandurg.

The writ petition is devoid of merit. Hence the interim order earlier passed by this court is vacated and the writ petition is dismissed.

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K.C. Bhanu, J.

Date: --12—2004.

MVB**.**

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Regional Manger, APSRTC, Anantapur Region, Anantapur
2 The Depot Manager APSRTC., Anantapur Depot Anantapur District
3 The Depot Manager, APSRTC Kalayndurg Depot Kalyandurg, Anantapur.

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